

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 27852 Permit 20177 License \_\_\_\_\_

**ORDER AMENDING PERMIT  
BY ADDITION OF TERMS AND CONDITIONS  
TO CONFORM WITH ORDER WR 96-002**

**WHEREAS:**

1. Permit 20177 was issued to Robert Skalli on November 20, 1987 pursuant to Application 27852 and was subsequently assigned to St. Supery Winery and Vineyard on May 22, 1990.
2. Permittee is a signatory to the March 10, 1995 Condition 12 Settlement Agreement (Agreement) between U.S. Bureau of Reclamation, Solano County Water Agency, and nearly all post-1945 appropriative water right holders in the Putah Creek watershed above Monticello Dam.
3. Order WR 96-002 was adopted by the State Water Resources Control Board on February 27, 1996.
4. Both the Agreement and the Order subject the permit to the following conditions.

**NOW, THEREFORE, IT IS ORDERED THAT THE FOLLOWING CONDITIONS BE  
ADDED TO THE PERMIT:**

Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.

(2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Within one year of the construction of the reservoir covered by this permit, permittee shall have the capacity of the reservoir surveyed by a registered civil engineer or licensed surveyor. A copy of the survey and area-capacity curve shall be provided to the watermaster and the SWRCB.

(4) Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the watermaster and the SWRCB, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings on October 1 of each year and April 30 of the succeeding year, or such other period as may be specified by the watermaster with written notice to the permittee.

(4) Permittee shall maintain monthly records of diversion to offstream storage from October 1 of each year to April 30 of the succeeding year, or such other period as may be specified with written notice to the permittee by the watermaster.

(5) Permittee shall report to the watermaster annually, all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.

b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.

c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is included in Application 23872 as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to:

(1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

Dated:

MARCH 9 1998

  
Edward C. Anton, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

APPLICATION 27852 PERMIT 20177 LICENSE \_\_\_\_\_

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE**

**WHEREAS:**

1. Permit 20177 was issued to Skalli Corporation on November 20, 1987 pursuant to Application 27852.
2. Permit 20177 was subsequently assigned to St. Supery Vineyards and Winery.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

**NOW, THEREFORE, IT IS ORDERED THAT:**

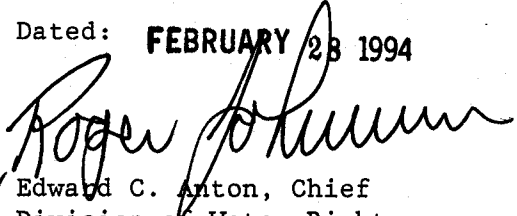
1. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 31, 1999

(0000009)

Dated: **FEBRUARY 23 1994**

*for*   
Edward C. Anton, Chief  
Division of Water Rights

## STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20177Application 27852 of Skalli Corporation

(over)

P.O. Box 253, St. Helena, California 94574

filed on August 29, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

## 1. Source:

## Tributary to:

(1) Maxwell CreekPope Creek thencePutah Creek thenceYolo Bypass(2) Unnamed StreamHarden Creek thence(3)-(8) Unnamed StreamsMaxwell Creek

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
SEE ADDENDUM					

County of Napa

\*Projected

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Frost Protection						
Heat Control						
Irrigation	S $\frac{1}{2}$	19	9N	4W	MD	70
		30	9N	4W	MD	130
	E $\frac{1}{2}$	23	9N	5W	MD	80
		24	9N	5W	MD	165
	N $\frac{1}{2}$	25	9N	5W	MD	150
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	26	9N	5W	MD	5
					Total	600

The place of use is shown on map filed with the State Water Resources Control Board.

## ADDENDUM

\*Projected

[illegible]

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed:

(a) By direct diversion

10 cubic feet per second from point of diversion (1), and a total of 1 cubic foot per second from points of diversion (2) through (8), to be diverted from May 1 to August 15 of each year for irrigation and heat control purposes.

(b) By storage

A total of 350 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year for irrigation and heat control purposes and from November 1 of each year to April 1 of the succeeding year for frost protection purposes as follows:

State Reservoir	300 acre-feet per annum
Trailer Lake	19 acre-feet per annum
Upper Lake	14 acre-feet per annum
No Road Lake	17 acre-feet per annum

The total amount of water to be taken from the sources shall not exceed 1,550 acre-feet per water year of October 1 to September 30. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1991. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1992. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water

surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action

will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. During the season for direct diversion specified in this permit, the total quantity and rate of water directly diverted and used under this permit and under permittee's claimed existing rights for the place of use specified in the permit shall not exceed the quantity and rates of direct diversion and use specified in this permit. If the permittee's claimed existing rights are quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rates of direct diversion and use allowed under this permit shall be the net of the face values of the permit less the amounts of water available under the existing rights.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing rights for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing rights claimed by permittee only in accordance with law. (0000021)

16. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoirs which is not authorized for appropriation under this permit may be released. Before starting construction under this permit, permittee shall submit plans and specifications of the outlet pipes or other alternatives for each dam, except State Dam, to the Chief of the Division of Water Rights for approval. Before storing water under this permit, permittee shall furnish evidence which substantiates that the outlet pipes or other alternatives have been installed in the dams. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

17. Construction of the enlargement of State Dam shall not be commenced until the Department of Water Resources has approved the plans and specifications. (0130049)

18. In accordance with the requirements of Water Code Section 1393, permittee shall clear the area covered by the proposed enlargement of State Reservoir of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)



19. For the protection of fish and wildlife, permittee shall bypass the following flows at point of diversion (1): a minimum of 7 cubic feet per second from November 1 through February 29, a minimum of 2.5 cubic feet per second from March 1 through May 31, and a minimum of 0.5 cubic foot per second from June 1 through August 15. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

20. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

21. In accordance with Section 1603, of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that necessary measures to protect fishlife have been incorporated into the plans for construction of the diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

22. Permittee is hereby put on notice that there may be years when storage and direct diversion of water under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee:

- (1) shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa and
- (2) shall not make any direct diversion during the portion of such years that, in the absence of the diversion, hydraulic continuity would exist between the diversion point and Lake Berryessa, and at such times shall allow all streamflow at the diversion works to pass undiminished to the downstream channel.

Nothing in this condition, however, shall preclude permittee from diverting water under any prior right. (0220088)  
(0230088)

23. The total amount of water diverted to storage in No Road Lake under this permit, together with that diverted to storage under the license issued pursuant to Application 23248 and the permit issued pursuant to Application 23834, shall not exceed 49 acre-feet per annum. (0000114)

24. The total amount of water diverted to storage in Upper Lake under this permit, together with that diverted to storage under the license issued pursuant to Application 24432 and the permit issued pursuant to Application 23834, shall not exceed 49 acre-feet per annum. (000114)

25. The total amount of water diverted to storage in Trailer Reservoir under this permit, together with that diverted to storage under the license issued pursuant to Application 24646 and the permit issued pursuant to Application 23834, shall not exceed 49 acre-feet per annum. (0000114)

26. The total quantity of water diverted to storage at State Dam under this permit, together with that diverted to storage under the permits issued pursuant to Applications 23672 and 23834, shall not exceed 1345 acre-feet per annum. (0000114)

27. The maximum simultaneous rate of diversion from Maxwell Creek under this permit, together with that under the permits issued pursuant to Applications 23834 and 27853, shall not exceed 10 cubic feet per second. (0000114)

28. Permittee shall install and properly maintain totalizing flow meters and/or other measuring devices, satisfactory to the State Water Resources Control Board, at points of diversion (1) through (8) in order that water directly diverted, rediverted, diverted to storage, and diverted to offstream storage under this permit and under the various other appropriations for the facilities in the system can be accurately determined. Permittee shall record the measuring device readings at least on a monthly schedule. Such records shall be maintained and furnished to the State Water Resources Control Board upon request.

(0060999)  
(0070999)  
(0090999)  
(0100999)

29. The archeological sites identified as CA-NAP-226 and CA-NAP-525 in "An Archeological Survey of the Skalli Corporation Vineyard in Pope Valley Pertinent to the Division of Water Rights Application #27852 and #27853, September 1984 by Jay M. Flaherty" shall not be impacted by any of the developments proposed in this project. No subsurface or surface disturbance of these sites shall occur from the water diversion, storage and distribution facilities or the installation and maintenance of vineyards.

(0380500)

30. Prior to making a request for license, or before license action will be considered by the State Water Resources Control Board, permittee shall consult with the Division of Water Rights and perform an irrigation system evaluation. A report on the evaluation shall be prepared by a person trained or experienced in irrigation system design and management, and submitted to the Board for approval.

All cost-effective water conservation measures identified in the irrigation system evaluation report shall be implemented prior to issuance of a license. (000029C)

*5/22/91 Asgd to St. Supery Vineyards & Winery;*

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: NOVEMBER 20 1987

STATE WATER RESOURCES CONTROL BOARD

*Raymond Wash*  
for Chief, Division of Water Rights